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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,478	12/21/2001	James B. Melesky	13811	4450

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EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/024,478

Applicant(s)

MELESKY, JAMES B.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14,17,21,22,24,25,27-29,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14,17,21,22,24,25,27-29,31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 14, 17, 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hackbarth et al (6578327).

Hackbarth et al (figures 1-3) shows an insulating cover assembly in combination with an existing attic access, the combination comprising an existing attic access defining an existing attic access opening therethrough and having a trap door (16) for closing the opening, a continuous frame (12) having spaced side walls and spaced end walls and which frame is formed of a free standing insulating material, the frame defining a frame opening therethrough for alignment with the existing attic access opening, the frame being of a size and configuration so as to surround the existing attic access opening (figure 1), a removable closure member (52) formed of a free standing insulating material, the removable closure member not being bonded to any portion of the continuous frame, the closure member including a central portion (the portion within the frame 12), the central portion being sized and shaped to fit within the opening defined by the frame and frictionally and snugly engage the side walls and end walls of the frame inside the opening (figure 1) to create a first continuous seal with the frame when the removable closure member is positioned on the frame in covering relationship with respect to the opening defined by the frame, an upper portion forming flanges, the flanges extending laterally outward relative

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to the depending central portion (figure 1, the flanges of part 52 which lie on top of the frame 12), the flanges being sized and shaped to frictionally and snugly engage an upper surface of the frame to create a second continuous seal with the frame when the removable closure member (52) is positioned on the frame in covering relationship with respect to the opening defined by the frame, the closure member is not hinged to and detaches from the frame when the first continuous seal and the second continuous seal are broken by a force applied to the removable closure member through the frame opening (inherently so), the first seal and the seal are generally orthogonal to each other when the removable closure member is positioned on the frame in covering relationship with respect to the opening defined by the frame, the frame including a generally continuous depending portion (figure 2, portion 22) extending downward from each of the side and end walls, the generally continuous depending portions being configured so as to extend into the existing attic access opening and to frictionally seal to the existing attic access opening, the trap door comprising a hatch (figure 2)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Anghinetti et al (3896595).

Hackbarth et al shows all the claimed limitations except for the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the

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closure member so as to be accessible within the access opening when the insulating cover is in place.

Anghinetti et al discloses a handle (38) secured to the lower surface of the depending central body portion (18) of the closure member so as to be accessible within the access opening when the insulating cover is in place to facilitate easy maneuvering of the closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's modified structure to show the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the closure member so as to be accessible within the access opening when the insulating cover is in place because it would enable easy maneuvering of the closure member from the access opening as taught by Anghinetti et al.

2. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Fuller (4281743) and Porter (5628158).

Hackbarth et al shows all the claimed limitations except for the removable closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a seal therebetween, and means for adhesively securing the opposing edges so as to form a unified removable closure member.

Fuller shows the closure member including at least first and second components (52, 53a, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for securing the opposing edges so as to form a unified closure member.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's structure to show the removable closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a seal therebetween as taught by Fuller, and means for adhesively securing the opposing edges to form a unified closure member because having the closure member made of multiple components with opposing edges engaged one another to create seal therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport, and having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

Hackbarth et al as modified shows the closure member comprising at least two pieces, the two pieces having a seal between them when positioned within the frame in covering relationship with respect to the opening defined by the frame, and the pieces are adhered together.

3. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Daw et al (4832153).

Hackbarth et al shows all the claimed limitations except for the removable closure member being coated with a fire retardant material.

Hackbarth et al (col 2 lines 50-65) further discloses the formation of a fire rated structure.

Daw et al discloses a closure member being coated with a fire retardant material (col 2 lines 47) to ensure safety against fire.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's structure to show the removable closure member being

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coated with a fire retardant material because it would protect the closure from fire as taught by Daw et al, and the fire resisting property is disclosed as desired by Hackbarth et al col 2 lines 50-65.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Waters et al (4344505).

Hackbarth et al shows all the claimed limitations except for the insulating material of the removable closure member and the frame being of an expanded polymeric material.

Hackbarth et al (col 4 lines 33-40) discloses that changes in materials of the various parts would be deemed readily apparent and obvious to one skilled in the art, and the disclosure is to forming an insulating structure between the attic and the room.

Waters et al discloses a removable closure member and the frame (28, 20, 22, 24, 26) made of insulating material and being of an expanded polymeric material (col 2 line 40-42).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's structure to show the insulating material of the removable closure member and the frame being of an expanded polymeric material because it would provide good insulating property of the attic covering structure as taught by Waters et al, and good insulation is disclosed as desired by Hackbarth et al (col 2 lines 50-65).

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Waters et al (4344505).

Hackbarth et al shows all the claimed limitations except for the trap door being attached to a fold down attic access ladder.

Waters et al discloses a trap door with a fold down attic access ladder.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's structure to show the trap door being attached to a fold down attic access ladder because having a fold down attic access ladder would provide for easy access to the attic as taught by Waters et al.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Fuller (4281743).

Hackbarth et al shows all the claimed limitations except for the removable closure member comprising two pieces, the two pieces having a seal between them when positioned on the frame in covering relationship with respect to the frame opening.

Fuller shows the closure member comprising at least two pieces(52, 53a, 53b, 52, figure 2), the two pieces having a seal between them when positioned on the frame in covering relationship with respect to the frame opening, each having opposing edges which are configured to cooperatively engage one another to create a seal therebetween, and means for securing the opposing edges so as to form a unified closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's structure to show the removable closure member comprising two pieces, the two pieces having a seal between them when positioned on the frame in covering relationship with respect to the frame opening as taught by Fuller because having the closure member made of multiple components with opposing edges engaged one another to create seal therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport.



7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hackbarth et al (6578327) in view of Fuller (4281743) as applied to claim 31 above and further in view of Potter.

Hackbarth et al as modified shows all the claimed limitations except for the pieces being adhered together

Potter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hackbarth et al's modified structure to show the pieces being adhered together because having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 14, 17, 21-22, 24-25, 27-29, 31-32 has been considered but is moot in view of the new ground(s) of rejection.

The declaration filed 2/1/2006 is considered and is moot in view of the new ground of rejection to Hackbarth et al.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows attic covering device.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

*PA*

4/15/06

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*Lanna Mai*